IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 5924 OF 2004

Narendra C. Soni & ors. ... Applicants

versus

The State of Maharashtra

and others ... Respondents

...

Mr.Ponda with Mr. H.R. Desai, for the Petitioner.

Mr. K.V. Saste, A.P.P., for the State.

Mr. Girish Kulkarni, for the complainant.

...

CORAM : A.M.KHANWILKAR,J.

14th January 2005

P.C.:

. Heard Counsel for the parties. Perused the documents tendered across the Bar in support of the stand taken in the application. There is substance in the argument canvassed on behalf of the Applicants that the grievance regarding non-payment of Rs.40 lakhs and more particularly regarding non-dematerialisation of shares is afterthought. The transaction has taken place

more than three years back. No such grievance has been made in any of the notices sent to the Applicants. Besdies, there is substance in the argument canvassed on behalf of the Applicants that whatever (eighty thousand) shares have been received are already given for de-materialisation as back as on 10th April 2001 and they are not in possession of any shares. Insofar as the liability to pay Rs. 40 lakhs is concerned, the Applicants are not disputing their liability, but the question is whether criminal action can be proceeded against the Applicants. Suffice it to observe that taking overall view of the matter, in the peculiar facts of the present case, the Applicants deserve to be granted anticipatory bail but on following conditions.

(A) The Applicants are granted anticipatory bail in conection with MCER No. 6/2004 registered with L.T. Marg Police Station on executing personal bond in the sum of Rs.1 lakh each with one or two local sureties in the like amount respectively.

(B) The Applicants shall abide by all the

conditions stipulated in section 438(2) of the Code of Criminal Procedure, as applicable to the State of Maharashtra.

. Application disposed of on the above terms.

. Parties to act on the authenticated copy of this order.

(A.M.KHANWILKAR,J.)